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1 Michael W. Sobol (State Bar No. 194857)
(msobol@lchb.com)
2 Paul A. Moore (State Bar No. 241157)
(pmoore@lchb.com)
3 LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP
4 275 Battery Street, 30th Floor
San Francisco, CA 94111-3339
5 Telephone: (415) 956-1000
Facsimile: (415) 956-1008

6 Michael A. Caddell (admitted *pro hac vice*)
(mac@caddellchapman.com)
7 Cynthia B. Chapman (State Bar No. 164471)
(cbc@caddellchapman.com)
8 George Y. Niño (State Bar No. 146623)
(gyn@caddellchapman.com)
9 CADDELL & CHAPMAN
10 1331 Lamar, Suite 1070
Houston, TX 77010
11 Telephone: (713) 751-0400
Facsimile: (713) 751-0906

12 *Attorneys for Plaintiffs*

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15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA
17 (Southern Division)
18
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BY FAX

Case No. 06-CV-5060-DOC/MLG

20 JOSE ACOSTA, *et al.*,
21 Plaintiffs,
22 v.
23 TRANS UNION, LLC,
24 Defendant.

**DECLARATION OF CHARLES
JUNTIKKA IN SUPPORT OF
OPPOSITION TO THE
PLAINTIFFS' MOTION FOR AN
ORDER GRANTING
PRELIMINARY APPROVAL OF
SETTLEMENT**

**Date: January 22, 2007
Time: 8:30 a.m.
Place: Courtroom 9D
Judge: Honorable David O. Carter**

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DECLARATION OF CHARLES JUNTIKKA
Acosta v. Trans Union - Case No.
CV 06-05060 DOC (MLGX)

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1 I, Charles Juntikka, declare and state:

2 1. I am a member in good standing of the New York State Bar,
3 have been admitted *pro hac vice* in this matter, am the principle in the law offices
4 of Charles Juntikka & Associates. I am counsel for plaintiffs in this action. I have
5 personal knowledge of the matters set forth herein, and could and would testify
6 competently thereto if called upon to do so.

7 2. I am one of the attorneys representing plaintiffs Terri N. White,
8 *et al.*, in actions pending in this Court against Trans Union, LLC ("Trans Union")
9 and Equifax Information Services, LLC ("Equifax") which are consolidated with
10 action brought by Jose Hernandez against those same defendants, (together,
11 "*White/Hernandez*"), and which are related to the above-captioned action and
12 another action pending against Equifax (together, "*Acosta/Pike*"). I submit this
13 Declaration in support of *White/Hernandez* Plaintiffs' Memorandum In Support Of
14 Opposition to *Acosta/Pike* Plaintiffs' Motion for an Order Granting Preliminary
15 Approval of Settlement.

16 3. I am a 1982 graduate of New York Law School. I founded the
17 bankruptcy firm bearing my name, Charles Juntikka & Associates, in 1984. Within
18 a few years, my firm became the largest personal bankruptcy firm in the New York
19 City area, representing over 20,000 Chapter 7 bankruptcy clients in New York and
20 New Jersey. During the last ten years, I have become well-known for my consumer
21 and community activism, as well as my volunteer work with students. I am a
22 member of the National Association of Consumer Bankruptcy Attorneys, and have
23 consulted on bankruptcy issues for media outlets such as the New York Times,
24 Wall Street Journal, Washington Post, CBS, NBC, CNN and PBS's Frontline.

25 4. I have conducted an extensive investigation regarding the issue
26 of the credit reporting agencies' chronic failure to accurately report the status of
27 debts discharged in bankruptcy. In fact, as part of my bankruptcy practice, I have
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1 lived closely with the issue on a day-to-day basis since the day I founded my firm.

2 5. Since the beginning of my personal bankruptcy practice in 1984,
3 I have received complaints from clients about inaccurate credit reports after their
4 bankruptcy cases were discharged and closed. As our practice grew to five
5 attorneys filing between one thousand to two thousand Chapter 7 cases per year, the
6 complaints about the credit reports increased to about half a dozen per week.

7 6. My clients would inform me that their credit reports still showed
8 debts as due and owing even though the debts were discharged. They were fearful
9 that the error ridden credit report meant that their bankruptcies had failed in some
10 way. They stated that they were certain this was impeding them from rebuilding
11 their credit. There were too many clients who stated that they had failed to obtain
12 rental apartments, jobs or promotions, mortgages or car loans or even high interest
13 credit cards because of the errors on their credit reports.

14 7. Our initial response to this problem was to provide our clients
15 with instructions on how to correct their credit report errors by mailing a dispute
16 letter to the credit reporting agencies.

17 8. On or about February of 2004, I became much more alarmed
18 about my clients' credit report problems when I attended a national conference held
19 by the National Association of Consumer Bankruptcy Attorneys (NACBA). One of
20 the seminars focused on the problems that debtors faced relating to post-bankruptcy
21 credit report errors and the Fair Credit Reporting Act. It was only then that I
22 realized the seriousness of this issue. I had yet to learn the truly staggering nature
23 of this problem. I was very concerned that I was advising clients to mail
24 complaints to credit reporting agencies when they were often simply ignored.

25 9. At that time, I speculated that this problem only existed for the
26 half a dozen clients who complained to my firm per week or approximately 300
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1 clients per year. I decided to ask those clients to bring in their credit reports for my
2 firm to assist them with sending their complaints to the credit reporting agencies.

3 10. After just a few months, my firm concluded that everything I
4 learned at the NACBA seminar had been true. The only way that I could be sure
5 that all my clients would receive the "fresh start" that I and the Bankruptcy Code
6 had promised them was to bring all my clients in and assist them in clearing their
7 credit reports of their inaccuracies.

8 11. At the beginning of our project to correct our clients' credit
9 reports, we made two fateful decisions. One, we would encourage every client to
10 come to our office for our help *whether or not* the client had previously complained
11 about their credit report. And two, we would not charge our clients for our
12 assistance and services, including the cost of purchasing their credit reports which
13 were not yet available for free.

14 12. In June of 2004, the attorneys of my firm began meeting with the
15 clients to assist them in reviewing and if necessary obtaining their credit reports.
16 From June of 2004 to August of 2005, over two thousand office visits occurred. If
17 the reports contained inaccuracies that showed discharged debts as due and owing,
18 my firm assisted clients at a second office visit. An official dispute letter was
19 mailed to the credit reporting agency along with copies of their bankruptcy F
20 schedules listing all of the debts and/or a bankruptcy court mailing matrix
21 identifying all the creditors. Two full time paralegals were entrusted with the
22 exclusive duty of managing this project.

23 13. After the first month of launching this project, I was astounded to
24 discover that errors existed on over *sixty percent* of our clients' credit reports after
25 their discharges were issued. I had expected an error rate of twenty to thirty percent
26 based on the number of complaints we were receiving from clients regarding their
27 credit reports. This assumption was false since the majority of my clients were
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1 completely unaware that the errors even existed. Most clients either could not
2 read the credit report or simply did not know that their discharged debts should no
3 longer be listed with derogatory information such as "past due" or "account charged
4 off".

5 14. When I learned of the true error rate, I was appalled. For twenty
6 two years, I dedicated my legal career to giving my clients a fresh start by the use
7 of the Bankruptcy Code. That fresh start had been rendered a sham by the credit
8 reporting agencies. The majority of my clients--beset by financial struggles brought
9 on by unemployment, medical problems, divorce, underemployment and a host of
10 other reasons--had not received the full benefits of the bankruptcy discharge.

11 15. The credit reporting agencies denial of the benefits of the
12 bankruptcy discharge was also a violation of the FCRA. However, it was clear that
13 bringing individual FCRA lawsuits at the rate of one thousand or more per year was
14 not a viable way for my small firm to correct this problem. Only a class action suit
15 held out the possibility of giving my clients the bankruptcy relief they were entitled
16 to, by stopping the illegal credit reporting practices of the credit reporting agencies.

17 16. Prior to the filing of the White class action suit, my firm filed
18 approximately 40 individual FCRA cases in 2004 and 2005. The credit reporting
19 agencies aggressively fought nearly every case. Each case settled. As the
20 individual FCRA litigation multiplied, it confirmed my belief that only a class
21 action suit held any hope of helping our clients.

22 17. The achievements of our year long class action project
23 conducted by five attorneys, two full time paralegals and the part time efforts of at
24 least four other members of my firm, are as follows: (1) initiating nearly 3,000
25 requests for consumer reports (incurring the cost of the reports plus the cost of
26 certified mail); (2) reviewing the reports for accuracy on each of the nearly 3,000
27 odd reports that were submitted to my firm by the clients; (3) creating a database
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1 identifying each client whose report contained errors, the number of such errors and
2 the identification of the errors; (4) preparing approximately 800 requests for
3 reinvestigation on behalf of those clients whose credit reports contained such errors;
4 (5) reviewing their new reports for errors following such re-investigation; and
5 (6) creating a database identifying each client whose reinvestigated report still
6 contained errors, the number of such errors and the identification of the errors.

7 18. The results of the my firm's investigation reveal an error rate
8 that is "staggering and outrageous" for both Trans Union and Equifax. The
9 investigation of approximately 960 Credit Reports issued by Trans Union reveals
10 that in about **64 percent** of those reports, Trans Union erroneously listed one or
11 more of my clients' discharged debts as due and owing. The average number of
12 such falsely listed debts was between three and four per report and, in some cases,
13 the number of such errors was ten or more. Indeed, over **17%** of my clients were
14 never able to correct their Trans Union credit reports *even after* a written request
15 seeking this relief was sent to Trans Union which included a copy of court records
16 showing that the debts at issue had been discharged.

17 19. The results of the investigation for Equifax were equally
18 distressing. The investigation of approximately 900 credit reports issued by
19 Equifax reveals that in about **66 percent** of those reports, Equifax erroneously listed
20 one or more of my clients' discharged debts as due and owing. The average
21 number of such falsely listed debts was between three and four per report and, in
22 some cases, the number of such errors was ten or more. Indeed, over **22%** of my
23 clients were never able to correct their Equifax credit report *even after* a written
24 request seeking this relief was sent to Equifax which included a copy of court
25 records showing that the debts at issue had been discharged.

26 20. My team has investigated the Acosta settlement using the credit
27 reports from my database. After reviewing a total to date of approximately 1,127
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1 Trans Union and Equifax credit reports, we have concluded that the Acosta
2 Settlement would fail to correct in excess of **95%** of my clients' credit reports.
3 This specific analysis of my client's credit reports was conducted with my
4 assistance by the office of my co-counsel Leonard A. Bennett, Esq. of Consumer
5 Litigation Associates, P.C., who directly oversaw the work of three paralegals who
6 work exclusively in the area of consumer protection and FCRA litigation, and who
7 are trained specifically in reading credit reports from Trans Union and Equifax.

8 21. The primary failure of the Acosta settlement is due to its narrow
9 focus on one type of error. The Acosta settlement only requires Trans Union and
10 Equifax to correct errors relating to credit card "revolving accounts" that are noted
11 as "charged off" or "in collection" prior to the filing of the bankruptcy. The vast
12 majority of the errors fall outside of this definition.

13 22. This failure is best explained by a breakdown of the errors that
14 do not fit into the Acosta criteria. As for Trans Union, the Acosta settlement would
15 fail to correct 545 credit reports out of a total of 576 reports or **95%** of the total
16 number of reports. The breakdown of the credit reports with errors that would not
17 be corrected are as follows:

18 (1) 174 credit reports with discharged consumer debts that are
19 not reported as a credit card account or account "tradeline" and instead are reported
20 as a separate "collection" entry in the report such as medical debts or collection
21 agency debt;

22 (2) 91 credit reports with credit card debts that were incurred
23 prior to the bankruptcy filing that were first noted with a "Chargeoff" or
24 "Collection" status on the reports *after* the filing of the bankruptcy;

25 (3) 163 credit reports with credit account tradelines that were
26 inaccurately reported in a derogatory status, but not as a credit card or "revolving
27 account" but as a different type of debt such as installment loans, credit lines,
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1 mortgage deficiencies, etc.;

2 (4) 223 credit reports with a discharged revolving account
3 tradeline reported with a derogatory status *other* than "charged off" or "in
4 collection" such as a notation stating "past due 30-days" or "repossession" or
5 "foreclosure";

6 (5) 142 with credit reports that had dischargeable judgments not
7 reported as "included in bankruptcy".

8 23. As for Equifax, the *Acosta* settlement would fail to correct 518
9 credit reports out of a total of 542 reports or **96%** of the total number of reports.
10 The breakdown of the credit reports with errors that would not be corrected are as
11 be corrected are as follows:

12 (1) 149 credit reports with discharged consumer debts that are
13 not reported as a credit card account or account "tradeline" and instead are reported
14 as a separate "collection" entry in the report such as medical debts or collection
15 agency debt;

16 (2) 164 credit reports with credit card debts that were incurred
17 prior to the bankruptcy filing that were first noted with a "Chargeoff" or
18 "Collection" status on the reports *after* the filing of the bankruptcy;

19 (3) 200 credit reports with credit account tradelines that were
20 inaccurately reported in a derogatory status, but not as a credit card or "revolving
21 account" but as a different type of debt such as installment loans, credit lines,
22 mortgage deficiencies, etc.;

23 (4) 288 credit reports with a discharged revolving account
24 tradeline reported with a derogatory status *other* than "charged off" or "in
25 collection" such as a notation stating "past due 30-days" or "repossession" or
26 "foreclosure";

27 (5) 171 with credit reports that had dischargeable judgments not
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1 reported as "included in bankruptcy".

2 24. In short, the *Acosta* settlement inadequately addresses a serious
3 societal problem of which I am acutely aware.

4 25. Since my team's filing of the *White* class action suit more than
5 one year ago, my office has reviewed hundreds and hundreds more credit reports
6 with the exact sort of errors identified in our complaint. This willful misconduct
7 has harmed thousands upon thousands of my clients over the last twenty years.

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12 I declare under penalty of perjury that the foregoing is true and correct. Executed
13 this 14th day of December, 2006, New York, New York.

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15 
16 Charles Juntikka